



March 10, 2016

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

**Re: Mediacom Communications Corporation Ex Parte Communication; MB  
Docket No. 15-216**

Dear Ms. Dortch:

We write in response to Mediacom Communication Corporation's letter dated February 16, 2016. While we are short on carnival metaphors, we are long on facts.

As a top-rated provider of cable television services to subscribers in communities in Washington, Oregon and California, Wave faces the same challenges as other small and mid-sized operators in its attempts to obtain retransmission consent at fair rates, terms and conditions. As a head-to-head competitor to Comcast in some communities, the rates extracted from Wave are particularly important. Wave knows that it pays more for retransmission consent than Comcast. Keeping that differential as small as possible is critical to Wave's ability to continue providing residents of Seattle and San Francisco a high-quality alternative to Comcast.

Wave fights hard to obtain the best possible retransmission consent rates, terms and conditions. It signs contracts sealing the deal for a period of years. The broadcasters sign those deals as well. At a minimum, Wave needs to protect its small and hard fought gains. Over the past year, however, Wave has been presented with a number of retransmission consent agreements that, as Mediacom accurately described, permit a broadcast group owner to bring in other non-owned, non-managed stations under the umbrella of its agreement. All that owner has to do is literally provide any "services" to the other station. When exercised, this effectively requires that Wave tear up its hard-fought contract with the other station(s) and pay more for retransmission consent.

Mediacom's description of the impact of this provision as described on page three of its February 16<sup>th</sup> letter is spot on. In fact, these provisions allow circumvention of the joint-negotiation prohibition. While two stations not under common ownership in a market could not jointly negotiate retransmission consent, they can simply each include the same provision in each



Marlene H. Dortch, Esq.  
Federal Communications Commission  
March 10, 2016  
Page 2


of their contracts. Then, the one that scores the higher retransmission consent rate merely provides a *de minimis* service to the other broadcaster's stations and brings all of them into its retransmission consent agreement.

The unusual vigor with which broadcast group owners resist any attempt to limit the breathtaking scope of this provision is a cause for concern. What are their plans? What new services, no matter how slight, might trigger such a provision, especially on the other side of the broadcast incentive auction? We can only imagine. But given the creativity that broadcast station owners have shown in the past to structure ways to avoid the Commission's duopoly rules and broaden the reach of retransmission agreements, we have no doubt that the inclusion of this new catch-all "services" provision will result in even more consolidation of retransmission consent rights resulting in higher rates for operators and higher costs for their customers.

The provisions and the way they operate are, in Wave's experience, accurately described in Mediacom's letter and apparently are becoming a standard part of most retransmission consent agreements.

If there is any additional information that we can provide, please let us know.

WaveDivision Holdings, LLC

  
James A. Penney, General Counsel

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